

July 12, 2018

TO: Members, Committee on Energy and Commerce

FROM: Committee Majority Staff

RE: CODEL to the United States-Mexico Border

On July 9, 2018, Chairman Walden led a bipartisan delegation of members of the Committee on Energy and Commerce to McAllen, Texas, and surrounding areas, to view border facilities and the border between the United States and Mexico. Members visited the following facilities:

- Department of Homeland Security (DHS), Customs and Border Protection (CBP) Centralized Processing Center (CPC) in McAllen, Texas;
- Tour of the border between the United States and Mexico near McAllen, Texas;
- Department of Health and Human Services, Office of Refugee Resettlement (ORR) grantee facility, Southwest Key Facility “Casa Padre” in Brownsville, Texas;
- DHS, Gateway Bridge Port of Entry in Brownsville, Texas; and
- DHS, Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) Port Isabel Detention Center.

This memorandum is compiled from the notes and recollection of staff who participated in the CODEL. It is not a comprehensive collection of all information learned during the trip. Members and staff were not permitted to take pictures inside the facilities visited. All interior pictures included in this memorandum are from press reports. All exterior pictures were taken by Committee staff.

I. The Rio Grande Valley Sector and the U.S.-Mexico Border

Members received a tour of the “line”—the border—between the U.S. and Mexico near McAllen, Texas. The Rio Grande Valley (RGV) sector of the border includes the facilities visited on July 9. The RGV includes more than 34,000 square miles of Southeast Texas, including 320 river miles and 250 coastal miles.

The RGV has the highest apprehension rate of UAC and family units on the Southwest border. According to CBP officials, cartels and other smugglers send UAC and family units across in dense refuge areas—areas with thick vegetation along the Rio Grande river—known to CBP. This means that, while CBP agents are apprehending family units and UAC from what are

effectively designated areas, cartels and other smugglers can bring in drugs and other contraband through other areas along the border in the RGV.

There are approximately 3,100 CBP agents in the RGV. Each day, roughly 900 agents are at checkpoints or on the border line, and 200 agents work to process individuals apprehended crossing the border illegally. CBP estimated that it needs another 500 agents in just this area of the border to provide adequately patrol coverage. CBP patrols the RGV border line by air, boat, on land (by vehicle, horse, and foot), and by utilizing permanent and mobile surveillance systems.

CBP officials explained the various challenges they face within the RGV sector due to the variation in the terrain and characteristics of the Rio Grande river. Examples of those challenges include dense vegetation and changes in the river's width and depth. The tools and equipment that they need to patrol these various terrains are more extensive than other sectors. For example, the river alone can require different types of marine vessels or boats given the variations in width and depth. CBP has a pilot initiative underway to increase the use of drones on the border, but it is difficult to use drones because the operator must keep a clear line of site with the drone. In addition, CBP must operate drones at specified elevations and obtain permits from the Federal Aviation Administration (FAA) for missions, especially given the proximity of the border to McAllen International Airport. Drones also have limited effectiveness in this sector due to the dense refuge areas on one or both sides of the border. The refuge areas on the U.S. side of the Rio Grande river are under the jurisdiction of the Fish and Wildlife Service. There are also many areas where private property runs up to the Rio Grande river. Many of the crops grown in this area are tall crops, which also makes it difficult to view and detect individuals (or goods, in the case of drugs and other contraband materials) moving through the property.

Due to the dense refuge areas on both sides of the border, individuals crossing the river from Mexico typically cannot be seen until they are in a raft on the Mexican side, and are quickly lost in the refuge area. They are often apprehended by CBP once they emerge from the undergrowth. Family units and UAC are seeking to be apprehended by CBP officials. One CBP agent said, "they arrest us." Roughly 100 UAC per day are apprehended in the RGV. CBP officials could not provide an average number of persons apprehended per day in family units. Often individuals are apprehended in large groups that include individuals, UAC, and family units.



Source: Committee staff. This area of the Rio Grande river has dense refuge areas on each side of the river. The river can be seen in the distance.



Source: Committee staff. This picture shows the dense refuge area in between the Rio Grande river and an access road. The river cannot be seen through the refuge area.

CBP officials stated that additional “enforcement zones” and additional technology would be helpful to secure the border in the RGV. The delegation viewed one such “enforcement zone” that was previously created. The area allows CBP agents to see individuals

as they exit the refuge area. One CBP agent said that the creation of a road along the Rio Grande river in the RGV would be very helpful.



Source: Committee staff. The “enforcement area” is bounded on one side by an access road and a levee on the other. A road runs through the middle of the area. Persons entering the country often walk through the enforcement zone to a large road nearby until they encounter CBP agents. On the other side of the access road is the refuge area.

CBP agents emphasized the challenges in the RGV sector but noted that different areas of the border with Mexico require different solutions, and something that would be helpful in the RGV may not be helpful in another part of the border. CBP showed members a video detailing changes in enforcement and apprehensions at different border sectors, including the RGV, from FY 1992 to FY 2016. The video can be found here: <https://www.youtube.com/watch?v=jRihEaftS0M>.

CBP estimated that 6,000 individuals illegally enter the U.S. in the RGV each week; CBP apprehends roughly 4,000-4,200 people. Family units and UAC pay roughly \$4,000 to smugglers to make it to the U.S. border. According to CBP, family units and UAC want to be apprehended by CBP, so their cost is lower. The smuggler will bring the family unit or UAC to the edge of the river on the U.S. side of the border and immediately return across to Mexico. The smuggler typically does not leave the raft on the river, so it is difficult for CBP to apprehend the smuggler himself. Individuals who want to get past the checkpoints further into the U.S., for example, to Houston, pay roughly \$8,000. For even more money, cartels and smugglers will bring an individual to any city in the U.S. An individual seeking to enter the U.S. illegally can also pay more money to avoid having to walk or travel through refuge areas.

CBP estimated that \$1.3 billion per year is generated for the cartels and other smugglers bringing individuals into the United States through only the RGV. The expenses for the journeys are roughly \$640 million, which includes rafts, guides, drivers, stash houses, bribes, etc., and the profits are roughly \$658 million.

II. DHS Customs and Border Protection Centralized Processing Center in McAllen, Texas

The delegation visited a CBP Centralized Processing Center (CPC) facility in McAllen, Texas and was provided a briefing and tour of the facility. The briefing included information regarding the shift in immigration patterns across the southern border and how those shifts in patterns have been addressed by the U.S. to date. This CPC facility is an example of the first facility that a person or family will visit after being apprehended for an illegal border crossing. There are two temporary detention facilities at this location. There is a 55,000-square foot facility which houses family units and UAC, which members viewed. There is a second facility that houses men and women who are not UAC or part of a family unit. The facility was quickly built after the surge of UAC in 2014. The facility can hold 3,300 people. On July 9, 2018, approximately 1,300 people were at the facility.



Source: NBC News, June 18, 2018. This is a picture of the inside of the CPC.

Prior to the creation of this facility, individuals and families apprehended at the border were processed at the McAllen station, which had a capacity of only 250 people. The video that CBP showed the delegation included images of the CBP facilities in McAllen prior to the creation of this facility, beginning at minute 4:12. The video can be found here: <https://www.youtube.com/watch?v=jRihEaftS0M>.

Individuals are held in this facility for an average of 50 hours for processing. The longest instance of someone being held in this facility that CBP could recall was one week. Upon arriving at the facility, the personal belongings of each individual are taken and stored. Individuals are provided a “claim check” for their belongings, which are then returned upon an individual’s departure from the facility. If an adult or child’s clothes need to be laundered, CBP provides new clothing and launders and then returns the original clothing. Individuals receive meals and snacks are readily available. Toilet and shower facilities are available, toiletries and other items such as diapers are provided, and each individual is issued a soft mat for sleeping and a hygienic mylar “space blanket” for warmth. Televisions with age-appropriate entertainment were provided in each of the facility’s zones. Representatives from the consulates of several countries are on site.

The building is divided into four “zones” – male head of household (men traveling with children); female head of household (women traveling with children); male UAC; and female UAC. In most situations, family units are held in the same zone. There are exceptions to this. For example, an older daughter traveling with her father will not be housed in the male head of household section. At the time of our visit, there was one family where the father and one young child were held in the male head of household section, and an older daughter was held in the female UAC section. CBP agents said that they would take them out of the respective areas to talk with each other any time they asked.

Processing by CBP includes determining whether a family relationship exists or if there is any evidence of fraud. Most of the time, CBP does not discern evidence of fraud or trafficking within the family units. However, there are exceptions. For example, CBP officials recounted that, just a few days before the Committee’s visit, a man crossed the border with a four-month-old baby that he claimed was his child. The demeanor of the man raised suspicions of CBP agents. Upon questioning, he then said that he was not the child’s father, but the child’s uncle. CBP agents searched their records and found that he had entered the U.S. the previous year with another child. When CBP agents asked about the whereabouts of that child, the man said that he did not know. Upon further questioning, the man admitted that he was not a relative of the infant at all, and the infant was separated from the man who brought him or her across the border.

After CBP processes those apprehended at the border, UAC are sent to HHS Office of Refugee Resettlement (ORR) shelters. HHS tells CBP which shelter a UAC should be sent to, and CBP transfers the UAC. Family units are referred to ICE detention facilities. If ICE does not have the capacity to detain the family, then they are released, typically with an ankle bracelet, and given a notice to appear at a subsequent immigration hearing. While there are several thousand ICE detention beds for women traveling with children, there are less than 90 detention beds for men traveling with children in the U.S. Adults apprehended illegally entering the country without minor children are also referred to ICE detention facilities. If ICE does not have the capacity to detain an adult, then he or she is released, typically with an ankle bracelet, and given a notice to appear at a subsequent immigration hearing.

Members asked about the implementation of the “zero tolerance” initiative and whether there was coordination between federal agencies prior to the implementation or announcement of this policy. One CBP official stated that, in his opinion, the “zero tolerance” initiative was a good deterrent, but expressed that the policy was not well executed. While CBP did not explicitly state that there was no coordination between federal agencies prior to the public announcement of the “zero tolerance” initiative, CBP officials did acknowledge that the implementation of the “zero tolerance” initiative was not great, and did not consider second, third, and fourth degree impacts, including family separations. CBP officials told staff that, in the RGV, they did not separate children under five from their parents unless there were concerns about fraud or trafficking, or other endangerment issues for the children. CBP officials also clarified that families were not separated in the field. CBP officials could not provide a figure for the number of children in total separated from their parents at this facility.

III. HHS Office of Refugee Resettlement, Southwest Key "Casa Padre" facility in Brownsville, Texas

The delegation visited an HHS ORR facility, managed by HHS grantee Southwest Key. The "Casa Padre" facility is licensed to hold just under 1,500 boys between the ages of 10 and 17. The facility originally received a license for 1,200 children, and received a variance for roughly an additional 240 children. Approximately half of all UAC, including separated children, in the RGV are housed at this facility. There are two other Southwest Key facilities nearby that house female UAC, including separated children. HHS also has other grantee sites in the RGV. According to Southwest Key staff, there are 23 other facilities in South Texas, but there isn't another program as big as Southwest Key. The average length of time that a child stays at this facility is 48 to 52 days. The longest amount of time that a child has stayed at this facility is "more than a year." The Casa Padre facility has approximately 1,200 employees.

According to Southwest Key, roughly 90 percent of the children housed in this facility are true UAC, meaning that they entered the U.S. without a parent or guardian. Roughly 10 percent were separated from a parent or legal guardian. For purposes of this section, both true UAC and children separated from their parents are defined as "UAC."

As noted above, UAC and children separated from their parents are first encountered by CBP. CBP notifies HHS ORR that it has apprehended a UAC. ORR does an "intake" out of its Washington, D.C. office and determines to which facility the UAC or separated child should go. DHS facilitates the transfer of the child to that shelter. According to ORR, more than 80 percent of UAC enter the U.S. with information about a potential sponsor and other paperwork.

ORR staff stated that they did not receive consistent information from DHS regarding whether a child was separated from their parents, including information about who that parent is, upon entry pursuant to the "zero tolerance" initiative or otherwise. Sometimes this information was in the information provided by DHS, and other times ORR learned about the separation from the child itself. Case managers work with DHS to obtain additional information needed about each UAC.

Within 24 hours of arriving at Casa Padre, UAC are assessed by a clinician and a case manager who immediately starts the reunification process. Within 48 hours of arrival, children are seen by a doctor for vaccinations, receive an x-ray for tuberculosis, are screened for communicable diseases such as chicken pox, and are screened via interview for information about sexual activity, sexual abuse, sexually transmitted diseases (STD), and chronic conditions, among other medical issues. Southwest Key follows the CDC's catch up schedule for vaccinations. If a UAC says that he or she received a vaccination in their home country, Southwest Key asks for documentation that they received the vaccination. It is rare that this documentation can be provided. If the UAC claims that they have been vaccinated, but documentation cannot be provided, the facility will still vaccinate the UAC. If a UAC tests positive for a reportable communicable disease or STD both the doctor and Southwest Key report that to the state. The sexual abuse screen asks whether a UAC has been sexually abused either in their home country, en route to the U.S., or in CBP or ORR care. UAC are also asked about sexual abuse by clinicians and case managers. UAC receive an educational assessment

within 72 hours and are assigned to one of four educational levels, with four being roughly a high school education.

UAC see a clinician at least once a week, sometimes more. They also regularly meet with their case manager. At Casa Padre, each UAC can make two ten-minute phone calls a week—one to someone in their home country (typically a parent) and another to their potential sponsor in the U.S. UAC receive six hours of school Monday through Friday and two hours of outdoor time each day. There are also indoor activity rooms and gymnasiums. Meals are served in 30-minute shifts. The facilities viewed by the delegation were clean. Casa Padre is divided into four quadrants. Each quadrant is identical and includes bedrooms, classrooms, and activity rooms. Each quadrant has an elected student council, including a President, Vice President, Secretary, and Treasurer, and can voice concerns and suggestions to Casa Padre management.



Source: CNN, June 24, 2018. This is a bedroom facility at Casa Padre.



Source: The Brownsville Republic, June 14, 2018. This is an activity room at Casa Padre.



Source: Vox, June 18, 2018. This is the cafeteria at Casa Padre.

As noted above, according to ORR, most UAC arrive in the U.S. with information about a potential sponsor. The case manager works with the potential sponsor to determine the relationship to the child. ORR policy requires a bonafide relationship—the sponsor must know the UAC in some way. If the potential sponsor is unable to prove his or her relationship to the UAC via birth certificates, then DNA testing is used. Approximately 100-150 UAC at Casa Padre are placed with a sponsor each week. The vast majority of sponsors are parents, aunts, uncles, and grandparents. Some sponsors are close family friends. If a UAC enters the country without an identified sponsor, ORR works with outside groups to determine whether the UAC

has a likelihood of receiving asylum. If such a UAC is likely to receive asylum, then he or she would likely be placed in foster care. If such a UAC is not likely to receive asylum, then he or she would likely stay at the ORR facility until their court date. If a UAC turns 18 while in the care of ORR, they are transferred to DHS custody.

When a sponsor is approved, Southwest Key staff travels with the UAC so they can meet their sponsor. Many sponsors are not legally present in the U.S., so they cannot travel to the Casa Padre facility as it is within the checkpoints in Texas. After a UAC is released to a sponsor, ORR tracks the UAC for 30 days, including by follow-up phone call. If ORR finds that the UAC is not doing well, for example, it is found that they haven't been enrolled in school or are not attending school, ORR files a report. Members asked why HHS does not follow-up at subsequent intervals, such as 3 months, 6 months, 1 year, etc. According to ORR, the UAC must appear for court dates and there are other systems in place should the UAC not appear in court. ORR has previously told the Committee that it does not have the resources necessary to conduct longer-term follow up of UAC once they are placed with sponsors.

As Casa Padre is not a detention facility, it cannot forcibly stop UAC from leaving the property. If a UAC indicates that he wants to leave, staff at Casa Padre speak with the UAC and encourage him to stay, but does not restrain the UAC should they elect to leave. Casa Padre staff stated that two UAC have walked out of the facility since it opened in 2017; one was subsequently apprehended and was stepped up to a higher shelter.

ORR monitors the capacity of its grantee shelters daily and is able to adjust as necessary. For example, Casa Padre applied for and received a variance to house more UAC when that became necessary.

According to ORR officials, children that were separated from their parents and are to be reunified with their parents would be brought by the shelter where they were placed to a reunification site, at which point the children would be transferred to ICE custody and the family unit would be released by ICE due to a lack of family detention space.

IV. Gateway Bridge Port of Entry

The delegation visited the Gateway Bridge Port of Entry in Brownsville, Texas. The delegation was briefed and provided a tour by the CBP officials on the Port of Brownsville. The briefing included information regarding the port's area of responsibility; operational infrastructure; its processing and inspection process for passenger, pedestrian, commercial, seaport, and rail border traffic; and admissibility processing.

The Port of Brownsville is the only port of entry in the United States with all operational disciplines (land, air, sea, and rail) under the direction of one port director. The Brownsville area of responsibility extends over 180 square miles and has four international border crossings, an international airport, seaport, rail bridge, and two commercial import/export lots. The operational infrastructure consists of 17 vehicle lanes, 10 pedestrian lanes, 17 immigration processing windows, and eight inbound commercial lanes. In 2017 the Brownsville Port ranked 5th in the number of vehicles processed – 4,848,503; 6th in the number of privately owned

vehicle passengers processed – 10,003,047; 12th in the number of commercially operated vehicles processed – 222,406; 13th in the number of trains processed – 790; and 12th in the number of buses processed – 6,591. Thus far in FY 2018, the Port of Brownsville has processed individuals claiming asylum from 91 different countries. Additionally, they processed approximately 12,000 immigration apprehensions. The Port of Brownsville issues 3,000 to 4,000 I-94s each day.

Port officials cannot turn away individuals or families seeking asylum once they have crossed the border between the U.S. and Mexico at the port of entry. CBP officials process those seeking asylum, creating an “A-file.” Individuals or families can stay at the Port for up to 72 hours, and all asylees are sent to ICE ERO after processing by CBP at the port. If the individual or family speaks Spanish, CBP officials can interview and transfer them to ICE ERO within three hours. If a translator is needed then the process can take longer, often six to eight hours. If the Port cannot transfer the individual or family, then the line quickly backs up. CBP officials stand outside the facility on the Gateway Bridge itself and allow people into the facility—both those seeking asylum and those otherwise entering the U.S.—as space permits. The CBP officials on the bridge also do a preliminary review of any paperwork presented by those wanting to enter the U.S. CBP officials expedite asylum processing for humanitarian reasons, including a pregnant mother or a family with young children. There are families waiting to legally claim asylum waiting in Mexico. CBP officials could not provide an estimate of how many families are waiting at this facility or the amount of time that an individual or family typically waits before space is available to process their asylum claim. According to CBP officials, they are processing legal asylum claims as quickly as ICE ERO can pick up the individuals or families. The delegation did not cross into Mexico.

According to CBP officials, approximately 80 percent of people seeking asylum are found to have a “reasonable fear” of persecution, which allows them to stay in the U.S. while their asylum case is pending. Ultimately, approximately 20 percent of people seeking asylum meet the “credible fear” standard.

CBP officials examine the documents provided by the individual or family for obvious indicators of fraud. According to CBP officials, they can often determine if a passport is fraudulent. It is much harder to determine if a birth certificate is fraudulent. CBP officials assume the documents presented are accurate and valid unless there is evidence that it is fraudulent. If an individual presents fraudulent documents, CBP refers the individual for prosecution.

The Port of Brownsville facility was last updated in 1983 and the CBP officials expressed concern over the fact that they don’t have a lot of room to handle UACs or family units. The lack of infrastructure is compounded by the fact that finding a facility to house families can take 72 hours. During a walking tour of the facility and bridge, the delegation observed what was formerly office space that has been converted into a room to hold UACs and family units until they are able to transfer them. This room is in the same area as the interview rooms and holding cells for criminals that are apprehended at the port of entry.

In addition to the lack of space, the Port of Brownsville facility is largely using old technologies. According to CBP officials, the Port does not receive enough electricity to run newer scanning technologies or magnetometers.

CBP officials told the delegation that there has been an increase in the male head of household family units coming across the border, 200 last year, and officials shared that there are limited facilities and beds that can accommodate that type of family unit. According to an ICE official at the Port Isabel Detention Center, if a male head of household family unit requests asylum at the Port of Brownsville facility, CBP officials at Brownsville will interview and process the request and make a request to ICE for male head of household detention bed space. Given the lack of male head of household detention space, ICE will deny the request. The family unit will be sent to a CPC and processed with a notice to appear for a subsequent immigration hearing. Officials also noted that part of the CBP delay is due to the port's infrastructure because the facility is not designed to process the high number of individuals seeking asylum.

V. Port Isabel Detention Center

The delegation visited the U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) Port Isabel Detention Center in Los Fresnos, Texas. The delegation was briefed and provided a tour by the ICE officials at the Port Isabel Detention Center. The briefing included information about the history of the facility, the size and classification of the population at the facility, average length of stay and the various reasons that individuals are detained at the Port Isabel facility.

The facility was built in the 1960s and was a former military base. Some of the infrastructure is new, but the facility still has parts of the original structure. The facility is a 1,200-bed facility and only holds adults, both male and female, who are awaiting removal or going through the removal process. The facility is authorized to house level 1 (non-criminal), level 2 (convicted of a minor crime), and level 3 (criminal felony) individuals. Individuals wear different color clothing depending on their level. Individuals classified as level 1 make up the majority of the facility's population. Individuals classified as level 1 do not interact with individuals classified as level 3. Individuals classified as level 2 can interact with individuals in level 1 or level 3, depending on the circumstances. Individuals detained at this facility come from a port of entry after claiming asylum, after apprehension by CBP after illegally crossing the border, often after claiming asylum, or an ICE action.

Upon arrival at the facility, individuals receive a quick medical screening and are classified into levels 1, 2, or 3. Within the first 12 hours, they receive a more thorough medical screening; females are also tested for pregnancy. The average length of stay for an individual is 11 days and on average there are roughly 500 individuals going in and out of the facility on a "good day." There are approximately 4-5 charter flights per week that hold 135 individuals to transport individuals back to their country of origin. Others are released into the U.S. after an interview showing that they have a "reasonable fear" of persecution if they return to their home country. Of the facility's population, officials noted that approximately 20-30 percent of individuals claim fear of being returned to their country.

According to ICE ERO officials, at this facility, if a pregnant woman is less than six months pregnant and can be returned to her home country within a week, she will be detained at Port Isabel and then deported. If she is more than six months pregnant, or will not be deported within a week, she is released with a notice to appear at a subsequent immigration hearing.

For individuals who are released into the U.S. after a credible fear screening, ICE ERO asks relatives or other people a potential asylee knows to procure a bus ticket for the individual before they are released. Local charitable shelters also help individuals get to their intended destinations.

Currently there are 371 identified parents in custody at Port Isabel, both male and female. ICE is working with HHS and ORR to identify parents and as such HHS is on site conducting DNA testing and matching them with children to ensure that they are a legitimate family. The DNA testing started last week and as of Monday, July 9, ICE officials expected that testing to be completed in the next 2 days. Despite being designated as a family reunification site, officials stated that there they are not equipped to have children at the Port Isabel facility. Instead, a third facility nearby was designated as a place for parents and kids to be reunified and they are working with ORR on that process. ICE ERO officials explained that Port Isabel had been designated as a family reunification site because it is a location to which parents have been moved to facilitate reunification with their children. ICE ERO officials at this facility did not have detailed information on the process by which parents separated from their children would be reunified with the parents at the third facility.

